IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Crl.MC.No. 3558 of 2007()

AGAINST THE ORDER DATED 13/10/2007 IN M.P.NO.1099/2007 IN MC.64/2004 OF THE FAMILY COURT, THRISSUR

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PETITIONER:

SHIBU, AGED 48 YEARS, S/O.POONARASSERY KESAVAN, KOORKANCHERY VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.VAKKOM N.VIJAYAN
SRI.P.ANIYAN
SRI.A.S.SACHIN

RESPONDENTS:

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1. SHILAJA, AGED 37 YEARS, D/O.THRIPPAKKAL SREEDHARAN, NETTISSERY DESOM, NETTISSERY VILLAGE, THRISSUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3558 OF 2007

Dated this the 28th day of November, 2007

O R D E R

The petitioner is the respondent in a claim for maintenance under section 125 Cr.P.C. before the Family Court, Thrissur. On the contention of the petitioner that he does not possess the requisite state of mind, he has been permitted to be represented by his father. An interim direction for payment of maintenance has already been issued. That order is not challenged. The arrears of interim maintenance remain to be paid. A total amount exceeding Rs.7,500/- is evidently due by way of arrears of maintenance, as is clear from the impugned order.

2. The petitioner did not defend the petition. He was, hence, set ex parte. Later, the petitioner, through his guardian, filed an application to set aside the ex parte order. The learned Judge of the Family Court allowed the said petition but on condition that an amount of Rs.7,500/- must be paid towards arrears of interim maintenance on or before 15.11.07. The amount has not been paid so far. The petitioner, through his guardian, has come before this court with the prayer that the said condition may be set aside.

3. I must alertly remind myself of the nature, quality and contours of the jurisdiction which I am called upon to exercise under section 482 Cr.P.C. Such jurisdiction is to be invoked and exercised only sparingly and in exceptional cases that too only in aid of justice. I am unable to perceive any circumstances in this case which can persuade me to invoke such jurisdiction. Admittedly, proper conduct of defence was not undertaken. Admittedly, arrears of interim maintenance was not paid. I do not, in these circumstances, find any vice vitiating the impugned order which can persuade me to invoke the jurisdiction under section 482 Cr.P.C.

4. This Crl.M.C. is, in these circumstances, dismissed.

5. The learned counsel for the petitioner finally prays that a short further time may be given to the petitioner to attempt to raise the amount and make the payment. I am satisfied that a short further time can be granted to the petitioner. The petitioner shall on or before 10.12.07 make such payment. If such payment is made, the learned Judge of the Family Court shall reckon the same as sufficient compliance of the impugned order.

(R.BASANT, JUDGE)

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